

**REMARKS**

Applicant respectfully requests reconsideration and entry of the foregoing amendments and the following remarks, which place this application in condition for allowance.

In the December 28, 2004 Office Action, the Examiner noted that claims 1-6 and 10-15 were pending in the application and that claims 1-6 and 10-15 were rejected. By this Amendment, claims 1 and 2 are amended. No new matter has been added by these amendments. Applicant believes that claims 1-6 and 10-15 are in condition for allowance. The Examiner's rejections are respectfully traversed below.

**Rejection under 35 U.S.C. § 102(b) – U.S. Patent No. 4,688,282 (Jeffries)**

In the Office Action, the Examiner rejected claims 1, 2 and 14 under 35 U.S.C. § 102(b) as being anticipated by Jeffries (U.S. Patent No. 4,688,282). Jeffries is directed to bedding for children comprising a generally rectangular blanket having a plurality of fasteners. *Col. 1, lns. 6-9 and 38-40*. As can be seen in Figures 1A and 2A of Jeffries, the straps are not located substantially at the ends of the top edge of the length dimension of the bedding before the wearer dons the bedding.

Applicant has amended claims 1 and 2 to define the location of the corner regions of the garment. Applicant's amendments also define when and how the straps are attached to the garment and in what phase of wear the straps are located at the corners of the top edge of the length dimension. Applicant's claims are thus directed to a garment with corner regions located substantially at the ends of the top edge of the length dimension. Applicant's claimed garment also has shoulder straps in which the ends are attached to horizontally opposite corners of the top edge of the length dimension before the wearer dons the garment. Jeffries does not disclose

these required limitations of Applicant's claims 1, 2 and 14. Thus, Jeffries cannot anticipate these claims. Accordingly, withdrawal of the Examiner's rejection is respectfully requested.

**Rejections under 35 U.S.C. § 103 – Keller (U.S. Patent No. 3,582,993) in view of Flaherty (U.S. Patent No. 6,186,861) or Hall (U.S. Patent No. 3,304,942) and Keller and Flaherty in further in view of Hoegerman (U.S. Patent No. 3,464,063)**

In the Office Action, the Examiner rejected claims 1-4, 6 and 10-14 for obviousness under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,582,993 to Keller in view of U.S. Patent No. 6,186,861 to Flaherty. The Examiner further rejected claims 1, 2 and 15 for obviousness under 35 U.S.C. § 103(a) as being unpatentable over Keller in view of U.S. Patent No. 3,304,942 to Hall. The Examiner also rejected claim 5 for obviousness under 35 U.S.C. § 103(a) as being unpatentable over Keller and Flaherty further in view of U.S. Patent No. 3,464,063 to Hoegerman.

Keller is directed to a dress or like garment having a transparent outer wall and means forming compartments for readily replaceable opaque decorative inserts behind the transparent outer wall. *Col. 1, lns. 12-15*. Keller requires the use of a closure or fastener to secure the garment on the wearer – and gives examples such as tie elements, a zipper, snaps or buttons. *Col. 3, lns. 40-52*. As can be seen from Figure 3 of Keller, the shoulder straps of Keller are not located on horizontally opposite corners of the top edge of the rectangular body section of the garment. Instead, the two shoulder straps are located a substantial distance from the corners of the top edge of the length dimension.

Applicant has amended claims 1 and 2 to further define the corner areas of the horizontal length dimension such that they are located substantially at the ends of the top edge of the length dimension. The shoulder straps of Applicant's invention are attached to the garment

at these corner areas. Keller does not disclose shoulder straps attached to corner areas substantially at the ends of the top edge of the length dimension of the garment. Applicant has also amended claims 1 and 2 to indicate that no other fasteners besides the shoulder straps are used to wrap and secure the garment around a user. As mentioned above, the shoulder straps of Keller secure the garment with the aid of fasteners. Keller does not disclose shoulder straps that are alone sufficient to secure the garment upon the torso of a wearer. Thus, Keller does not disclose the required limitations of Applicant's claims 1 and 2.

Flaherty does not make up for the deficiencies of Keller. The Office Action does not argue that Flaherty teaches, discloses or suggests shoulder straps located in corner areas substantially at the ends of the top edge of the length dimension. Further, Flaherty does not teach, disclose or suggest shoulder straps which are alone sufficient to secure the garment upon the torso of the wearer. Thus, the combination of Flaherty with Keller would not render obvious claims 1-4, 6 and 10-14 of Applicant's invention. Accordingly, withdrawal of the Examiner's rejection of claims 1-4, 6 and 10-14 is respectfully requested.

Hall also does not make up for the deficiencies of Keller. The Office Action does not argue that Hall teaches, discloses or suggests shoulder straps located in corner areas substantially at the ends of the top edge of the length dimension. Further, Hall does not teach, disclose or suggest shoulder straps which are alone sufficient to secure the garment upon the torso of the wearer. Thus, the combination of Hall with Keller would not render obvious claims 1, 2 and 15 of Applicant's invention. Accordingly, withdrawal of the Examiner's rejection of claims 1, 2 and 15 is respectfully requested.

Hoegerman does not make up for the deficiencies of Keller and Flaherty. The

Office Action does not argue that Hoegerman teaches, discloses or suggests shoulder straps located in corner areas substantially at the ends of the top edge of the length dimension. Further, Hoegerman does not teach, disclose or suggest shoulder straps which are alone sufficient to secure the garment upon the torso of the wearer. Thus, the combination of Hoegerman with Keller and Flaherty would not render obvious claim 5 of Applicant's invention. Accordingly, withdrawal of the Examiner's rejection of claim 5 is respectfully requested.

Applicant has not specifically addressed the rejections of the dependent claims. Applicant respectfully submits that the independent claims, from which they depend, are in condition for allowance as set forth above. When an independent claim is not anticipated or obvious, the dependent claims which depend from the independent claim cannot be anticipated or obvious. Thus, Applicant respectfully submits that the dependent claims are also in condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.

### **CONCLUSION**

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and such action is earnestly solicited.


The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4099-4006US1.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4099-4006US1.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: February 25, 2005

By: \_\_\_\_\_

  
Eric L. Lane  
Registration No. 56,399

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 Telephone  
(212) 415-8701 Facsimile